State of Oregon
Department of Environmental Quality Memorandum

Date: Jan. 31, 2022

To: Environmental Quality Commission

From: Richard Whitman, Director

Subject: Item J: Director's Report (Informational)
Feb. 3-4, 2022, EQC meeting

1. Director's Office

1.1. Diversity, Equity and Inclusion Coordinator and DEI Council

Natalie Nava joined DEQ in December as our DEI Coordinator, shortly after the formal launch of the agency's DEI Council. Natalie has substantial experience in working with large organizations to help integrate DEI into the workplace. DEQ also launched its DEI Council in November 2021. The Council has 14 members, selected from a pool of applicants across the agency. The council has been meeting every two weeks as it gets started. The council is working with the agency's consultants – Engage to Change – to complete a DEI assessment that will help us identify areas of priority and focus for this work.

1.2. Staffing

Annalisa Bhatia is out on maternity leave for the next few months. Nancy Bennett is filling in as the agency's lead legislative coordinator during this time. Valerie Wicklund, DEQ's Internal Auditor, is on reduced hours at present.

2. Water Quality Division

2.1. Jennifer Wigal Named as Division Administrator

In January, Jennifer Wigal was appointed the Division Administrator for DEQ's Water Quality Division. Wigal has served as the Deputy Division Administrator for the last three years, stepping into an interim role as lead administrator in December 2021. She has more than 20 years' experience working in water quality programs at the state and federal level, including several different roles within DEQ's water quality program, including managing Oregon's Water Quality Standards program and the Water Quality Assessments program. Prior to DEQ, she built her expertise in water quality programs at U.S. EPA Headquarters working in water quality standards and permitting.

Wigal has held several national leadership positions including serving as the president (2017-2018) and vice-president (2016-2017) of the Association of Clean Water Administrators. She also served as a member of the National Green Infrastructure Certification Program Governing Body convened by the Water Environment Federation and DC Water to establish a national certification program for individuals who install, inspect and maintain green infrastructure systems. Jennifer received her Master's in Environmental Engineering from Johns Hopkins University and a B.S. in Civil Engineering from Washington State University.

DEQ is recruiting for a Deputy Administrator for the Water Quality Division.

2.2. Aquatic Life Criteria Rulemaking

DEQ has convened the Rulemaking Advisory Committee for the rulemaking to update aquatic life criteria. Connie Dou and staff are working with the committee to develop proposed updates to designations for aquatic life use subcategories. These categories correspond to different life stages, each of which relates to particular water quality standards for temperature and dissolved oxygen. The updates are based on more recent data and reporting, particularly from other agencies and partners.

2.3. Integrated Report

Oregon's Draft 2022 Integrated Report on Surface Water Quality and 303(d) List of Water Quality Limited Waters is now available on DEQ's website:
https://www.oregon.gov/deq/wq/Pages/proposedIR.aspx

DEQ is accepting comments on its 2022 assessment results and TMDL priority rankings through 5 p.m., Friday, Feb. 11, 2022. Comments can be submitted to IntegratedReport@deq.oregon.gov

3. Air Quality Division

3.1. Air Quality Permitting Update Rulemaking

DEQ is working on proposed updates to several rules that pertain to air quality permitting. The goals of this rulemaking are to ensure that communities are protected and that permits are comprehensive and meet all regulatory requirements. DEQ is undertaking this work now for several reasons. Proposed rule revisions will address some of the deficiencies identified in the 2018 Secretary of State audit of the air quality permitting program. In consultation with stakeholders, DEQ intends to simplify and clarify rules to speed up processes and improve statewide consistency. DEQ is also proposing to refine some earlier streamlining efforts to better achieve desired outcomes. With this rulemaking, DEQ also has an opportunity to address some environmental justice concerns by integrating requirements from recently passed legislation that pertain to a source's compliance history. And DEQ is proposing several housekeeping changes to make the permitting rules easier to understand and implement.

4. Eastern Region

4.1. Chemical Waste Management Permit Modification (Gilliam County)

DEQ approved a permit modification for Chemical Waste Management of the Northwest on Dec. 16, 2021, following a 60-day public comment period. The permit modification allows CWM to add a container storage unit at its hazardous waste Treatment, Storage and Disposal Facility near Arlington. The additional storage unit expands the facility's waste storage capacity.

CWM hosted a virtual public information meeting via Zoom on Oct. 21, 2021, to discuss the proposal and answer questions. DEQ Hazardous Waste Program staff also attended the meeting to answer questions and provide information about next steps. DEQ received no official public comments on the proposed permit modification. DEQ received comments from EPA Region 10 as part of an interdepartmental agreement and in response made changes to the permit and attachments.

Interested parties may view the permit modification approval letter at this link. Additional permit information and records are available on DEQ's Environmental Cleanup Site Information Database.

4.2 Port of Morrow Nitrate Violations (Morrow County)

DEQ fined the Port of Morrow $1.3 million in January for overapplying wastewater containing nitrogen to agricultural fields and failing to monitor those fields in the Lower Umatilla Basin, an area with longstanding groundwater contamination.

The Port of Morrow collects wastewater from food processors, storage facilities and data centers in its industrial park outside Boardman. The port has a DEQ water quality permit that allows it to use the nitrogen-rich wastewater beneficially for irrigation on nearby farms, but the permit includes limits on how much nitrogen can be applied to the farmland and how much nitrate can be present in soil prior to applications. The port violated these limits, resulting in approximately 165 tons of excess nitrogen being applied between 2018 and 2021. The port also failed to monitor nitrogen at application sites on 121 separate occasions each year from 2018 to 2020.

DEQ is also working with the Port of Morrow and other facilities in the area to ensure appropriate and agronomic irrigation practices during the non-growing season when crop uptake of nitrate is minimal. There is increased risk of nitrate reaching groundwater during the non-growing season.

DEQ conducted outreach to local governments, tribal government partners and community organizations, and issued a news release about this enforcement action, which drew coverage from local and national media, including OPB, Capital Press, East Oregonian, and US News and World Report.

5. Northwest Region

5.1. Astoria Area-Wide Petroleum Site (Astoria)

The Astoria Area-Wide Petroleum Site consists of properties adjacent to the Columbia River and Youngs Bay. Site operations have included manufacturing, automotive service stations, bulk fuel storage and Port of Astoria facilities. DEQ has found widespread petroleum contamination in soil and groundwater.

On Nov. 1, 2021, DEQ put out for public comment the proposed agreement to clean up Area of Concern 4 at this site in accordance with the 2019 Record of Decision. The upland area of AOC4 includes the former Mobil/Niemi Oil Bulk Plant, several petroleum distribution pipelines, a Port of Astoria maintenance shop and former Port vehicle service underground storage tank, and portions of former steelworks and furniture manufacturing facilities. The Port currently has offices, equipment storage and maintenance facilities on the upland portion of AOC4, as well as several businesses. AOC4 extends into the Columbia River and includes the terminal portion of Slip 2 where petroleum contamination discharges to the river resulting in a sheen.

The public comment period closed with no comments on December 1, 2021. The final Consent Judgment is under the responsible party's review, after which DEQ will send it to a judge for signature.

5.2. Metro Metals / East Whitaker Pond Cleanup Site (Portland)

Metro Metals Northwest, Inc. is an industrial scrap metal company located in Portland within the Columbia Slough Watershed. Past Metro Metals' metal recycling operations likely released hazardous substances, including Polychlorinated Biphenyls (PCBs), metals and petroleum constituents, to East Whitaker Pond sediments through contaminated stormwater runoff. East Whitaker Pond is a City of Portland nature park and home to a significant population of western painted turtles, a state-listed sensitive species, as well as other wildlife. Since 2008, Metro Metals filters stormwater from the facility and treats it before discharging it into the pond.

DEQ oversaw Metro Metals' clean-up of East Whitaker Pond sediments and adjacent soils from May to October 2021. This work included:

- Draining water slowly from the pond with wildlife appropriately relocated.
- Excavating significantly contaminated soils and sediments for landfill disposal.
- Placing a thin layer cap on moderately contaminated soils.
- Incorporating turtle habitat elements into the construction design.

Approximately two weeks after construction concluded, East Whitaker Pond was completely refilled via natural groundwater. DEQ saw turtles using the habitat features incorporated into the construction once pond water returned. Metro Metals will conduct long-term monitoring and maintenance to ensure the cap remains protective and functions as designed.

5.3. Owens-Brockway (Portland)
Owens-Brockway Glass Plant #21 produces a variety of glass bottles and jars from post-consumer glass and raw materials. This plant has been operating in northeast Portland since 1956.

Air Quality
On Oct. 22, 2021, DEQ signed an agreement with Owens-Brockway resolving a June 2021 enforcement action. The agreement, officially called a Mutual Agreement and Final Order, gives Owens-Brockway two options: install pollution controls or shut down. The MAO requires Owens-Brockway to: make a decision about pollution controls or shutting down by June 30, 2022; comply with an interim opacity limit until controls are installed; and spend a portion of its penalty amount on a Supplemental Environmental Project that will provide air quality benefits to the surrounding community. Owens-Brockway is currently in compliance with the MAO.

On Jan. 19, 2022, the company submitted an application for a Supplemental Environmental Project, or SEP, to contribute $529,404 to Friends of Trees for tree planting efforts. The SEP would pay to plant trees in the Sumner neighborhood, where the facility is located, as well in the adjacent neighborhoods of Cully, Parkrose, Argay and Wilkes, and within the nearby Columbia Slough Watershed in northeast Portland. The SEP application is under review by DEQ.

Water Quality
On Jan. 21, 2022, DEQ issued a separate enforcement to Owens-Brockway for violating its stormwater permit by failing to monitor the facility's stormwater discharge appropriately. The enforcement includes a $15,701 penalty. Owen-Brockway has the opportunity to appeal for 20 calendar days.

Cleaner Air Oregon
DEQ provided comments to Owens-Brockway on its revised risk assessment and related documents in December 2021. Owens-Brockway made revisions and sent the assessment back to DEQ. The document is currently under review at DEQ.

Regional Haze
DEQ entered a Stipulated Agreement and Final Order with Owens-Brockway to obtain compliance with Regional Haze on Aug. 9, 2021. Through the order, Owens-Brockway agreed not to operate Furnace A any longer; to accept tighter limits on sitewide emissions of nitrous oxide, sulfur dioxide and particulate matter by January 2022; and to make further reductions by July 2025. The requirements from this order will be incorporated into the air quality permit as described below.

Air Quality Permit
On January 4, 2022, DEQ approved Owens-Brockway's modelling protocol for demonstrating the facility's level of compliance with short-term National Ambient Air Quality Standards. On

January 19, 2022, Owens-Brockway submitted their modelling results to DEQ. DEQ is currently reviewing the results and working to incorporate key modelling parameters into the permit.

This follows the May 2021 U.S. Environmental Protection Agency order requiring DEQ to revise the permit to ensure compliance with particulate matter emission limits. The permit will address any outcomes from the NAAQS compliance modelling, respond to EPA's May 2021 order, and incorporate compliance requirements from the enforcement Mutual Agreement and Order (see above) as well as the Regional Haze Stipulated Agreement and Final Order executed on Aug. 9, 2021 (see above). If DEQ issues the permit prior to completing the Cleaner Air Oregon process, then DEQ will incorporate any additional requirements via a permit attachment.

5.4 PCBs Areawide – N. Bradford Right-of-Way (Portland)
Along the railway that runs between an industrial area and Cathedral Park just north of the St. Johns Bridge, DEQ is addressing high levels of PCBs. The City of Portland originally discovered the PCBs in 2011, and DEQ evaluated the property as part of Peninsula Iron Works' Source Control Evaluation. Peninsula Iron Works addressed its source control issues by re-routing its stormwater to the City of Portland system. DEQ issued a Source Control Decision in 2020 determining contamination does not have a pathway to the Willamette River. This work did not include removal of the PCB contamination that remained in the soil along the railway, because concentrations do not pose an unacceptable short-term risk.

Several community groups sent DEQ a letter in September 2021, asking DEQ to take action to address this area. DEQ met with community members in early October and late November 2021. While DEQ goes through the regular cleanup process with potentially responsible parties, DEQ is working with these community members to create appropriate outreach materials to help people walking through the area minimize their exposure. DEQ is doing this work in collaboration with Oregon Health Authority. DEQ's next meeting with the community is on Jan. 26, 2022.

As part of the regular cleanup process, DEQ sent option letters to Peninsula Iron Works and Union Pacific Railroad to enter the Voluntary Cleanup Program and investigate and remediate the site. Union Pacific has agreed to enter the program and DEQ is in discussion with them. DEQ anticipates a response from Peninsula Iron Works by early February 2022. DEQ is continuing to engage and coordinate with the City of Portland as a property owner.

6. Western Region

6.1. J.H. Baxter Plant (Eugene)
The Oregon Department of Environmental Quality is requiring J.H. Baxter & Co., owner of a wood treatment facility in Eugene, to collect soil samples in nearby residential yards to determine if contaminants from the company's plant have accumulated in the neighborhood at levels that require further action. The sampling took place in late 2021, with support from a

multi-entity technical team including the Lane Regional Air Protection Agency, the Oregon Health Authority, Oregon State University and the City of Eugene.

Sampling results showed elevated levels of dioxins in soil at several residences near the J.H. Baxter plant. Residents have been notified, and DEQ asked Baxter to expedite cleanup of three residences with the highest concentrations of dioxin. On Jan. 26, 2022, Baxter informed DEQ that they did not have the financial ability to do the required work and were going to close the facility. Baxter intends to continue to an operate onsite groundwater treatment system that DEQ required as part of an earlier investigation. DEQ is working with neighbors and local, state and federal partners to ensure that we have good communications about next steps regarding further investigation of offsite soil contamination and cleanup of affected properties. DEQ anticipates that some combination of Orphan Fund and EPA Removal Program resources will be the mechanism for cleanup and investigation going forward.

DEQ will seek to recover costs from Baxter as part of the process going forward. DEQ is planning additional public meetings to share the information and describe next steps. OHA plans to have a separate meeting to provide information about health effects of dioxins.

As part of the soil investigation, samples were collected from several background locations, including Trainsong Park. The Trainsong Park sample showed elevated levels of dioxins. DEQ is working closely with the City of Eugene to further investigate this unexpected discovery. The city has closed the park until further information is available.